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(f) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, presiding officer or the designated atomic safety and licensing board may direct in the interests of:

(1) Restricting irrelevant, duplicative, or repetitive evidence and argument,

(2) Having common interests represented by a spokesman, and

(3) Retaining authority to determine priorities and control the compass of the hearing.

(g) In any case in which, after consideration of the factors set forth in paragraph (d)(1) of this section, the Commission or the presiding officer finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit his participation accordingly.

(h) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (f) of this section.

(i) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

(j) The provisions of this section do not apply to license applications docketed under subpart J of this part.

[37 FR 15132, July 28, 1972, as amended at 37 FR 28711, Dec. 29, 1972; 39 FR 17972, May 22, 1974; 43 FR 17801, Apr. 26, 1978; 44 FR 4459, Jan. 22, 1979; 51 FR 27162, July 30, 1986; 54 FR 14944, Apr. 14, 1989; 54 FR 23740, June 2, 1989; 54 FR 33180, Aug. 11, 1989; 54 FR 39728, Sept. 28, 1989; 66 FR 55788, Nov. 2, 2001; 67 FR 20885, Apr. 29, 2002]

§ 2.714a Petitions for review of certain rulings on petitions for leave to intervene and/or requests for hearing.

(a) Notwithstanding the provisions of § 2.730(f), an order of the presiding officer or the atomic safety and licensing board designated to rule on petitions for leave to intervene and/or requests for hearing may be appealed, in accordance with the provisions of this section, to the Commission within ten (10) days after service of the order. The appeal shall be asserted by the filing of a notice of appeal and accompanying supporting brief. Any other party may

file a brief in support of or in opposition to the appeal within ten (10) days after service of the appeal. No other appeals from rulings on petitions and/or requests for hearing shall be allowed.

(b) An order wholly denying a petition for leave to intervene and/or request for a hearing is appealable by the petitioner on the question whether the petition and/or hearing request should have been granted in whole or in part.

(c) An order granting a petition for leave to intervene and/or request for a hearing is appealable by a party other than the petitioner on the question whether the petition and/or the request for a hearing should have been wholly denied.

[37 FR 28711, Dec. 29, 1972, as amended at 43 FR 17802, Apr. 26, 1978; 56 FR 29408, June 27, 1991]

§ 2.715 Participation by a person not a party.

(a) A person who is not a party may, in the discretion of the presiding officer, be permitted to make a limited appearance by making oral or written statement of his position on the issues at any session of the hearing or any prehearing conference within such limits and on such conditions as may be fixed by the presiding officer, but he may not otherwise participate in the proceeding.

(b) The Secretary will give notice of a hearing to any person who requests it prior to the issuance of the notice of hearing, and will furnish a copy of the notice of hearing to any person who requests it thereafter. When a communication bears more than one signature, the Commission will give the notice to the person first signing unless the communication clearly indicates otherwise.

(c) The presiding officer will afford representatives of an interested State, county, municipality, Federally-recognized Indian Tribe, and/or agencies thereof, a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to §§ 2.754 and 2.762

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and petitions for review by the Commission pursuant to §2.786. The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

(d) If a matter is taken up by the Commission pursuant to §2.786, a person who is not a party may, in the discretion of the Commission, respectively, be permitted to file a brief "amicus curiae". A person who is not a party and desires to file a brief must submit a motion for leave to do so which identifies the interest of the person and states the reasons why a brief is desirable. Except as otherwise provided by the Commission, such brief must be filed within the time allowed to the party whose position the brief will support. A motion of a person who is not a party to participate in oral argument before the Commission will be granted at the discretion of the Commission.

[27 FR 377, Jan. 13, 1962, as amended at 28 FR 10153, Sept. 17, 1963; 43 FR 17802, Apr. 26, 1978; 56 FR 29408, June 27, 1991; 64 FR 29213, June 1, 1999]

§2.715a Consolidation of parties in construction permit or operating license proceedings.

On motion or on its or his own initiative, the Commission or the presiding officer may order any parties in a proceeding for the issuance of a construction permit or an operating license for a production or utilization facility who have substantially the same interest that may be affected by the proceeding and who raise substantially the same questions, to consolidate their presentation of evidence, cross-examination, briefs, proposed findings of fact, and conclusions of law and argument. However, it may not order any consolidation that would prejudice the rights of any party. A consolidation under this section may be for all purposes of the proceeding, all of the issues of the proceeding, or with respect to any one or more issues thereof.

[37 FR 15132, July 28, 1972]

§2.716 Consolidation of proceedings.

On motion and for good cause shown or on its own initiative, the Commission or the presiding officers of each affected proceeding may consolidate for hearing or for other purposes two or more proceedings, or may hold joint hearings with interested States and/or other federal agencies on matters of concurrent jurisdiction, if it is found that such action will be conducive to the proper dispatch of its business and to the ends of justice and will be conducted in accordance with the other provisions of this subpart.

[43 FR 17802, Apr. 26, 1978]

§2.717 Commencement and termination of jurisdiction of presiding officer.

(a) Unless otherwise ordered by the Commission, the jurisdiction of the presiding officer designated to conduct a hearing over the proceeding, including motions and procedural matters, commences when the proceeding commences. If no presiding officer has been designated, the Chief Administrative Law Judge has such jurisdiction or, if he is unavailable, another administrative law judge has such jurisdiction. A proceeding is deemed to commence when a notice of hearing or a notice of proposed action pursuant to §2.105 is issued. When a notice of hearing provides that the presiding officer is to be an administrative law judge, the Chief Administrative Law Judge will designate by order the administrative law judge who is to preside. The presiding officer's jurisdiction in each proceeding will terminate upon the expiration of the period within which the Commission may direct that the record be certified to it for final decision, or when the Commission renders a final decision, or when the presiding officer shall have withdrawn himself from the case upon considering himself disqualified, whichever is earliest.

(b) The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, may issue an order and take any otherwise proper administrative action with respect to a licensee who is a party to a pending proceeding. Any order related to the subject matter of